

REFERENCE TITLE: schools; rapid growth; capital plan

State of Arizona
Senate
Forty-eighth Legislature
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2007

SB 1539

Introduced by
Senator Rios; Representative Rios P: Senators Aguirre, Miranda

AN ACT

AMENDING SECTION 15-2041, ARIZONA REVISED STATUTES; RELATING TO THE SCHOOL
FACILITIES BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-2041, Arizona Revised Statutes, is amended to
3 read:

4 15-2041. New school facilities fund; capital plan; report

5 A. A new school facilities fund is established consisting of monies
6 appropriated by the legislature and monies credited to the fund pursuant to
7 section 37-221. The school facilities board shall administer the fund and
8 distribute monies, as a continuing appropriation, to school districts for the
9 purpose of constructing new school facilities. On June 30 of each fiscal
10 year, any unobligated contract monies in the new school facilities fund shall
11 be transferred to the capital reserve fund established by section 15-2003.

12 B. The school facilities board shall prescribe a uniform format for
13 use by the school district governing board in developing and annually
14 updating a capital plan that consists of each of the following:

15 1. Enrollment projections for the next five years for elementary
16 schools and eight years for middle and high schools, including a description
17 of the methods used to make the projections.

18 2. A description of new schools or additions to existing schools
19 needed to meet the building adequacy standards prescribed in section 15-2011.
20 The description shall include:

21 (a) The grade levels and the total number of pupils that the school or
22 addition is intended to serve.

23 (b) The year in which it is necessary for the school or addition to
24 begin operations.

25 (c) A timeline that shows the planning and construction process for
26 the school or addition.

27 3. Long-term projections of the need for land for new schools.

28 4. Any other necessary information required by the school facilities
29 board to evaluate a school district's capital plan.

30 5. If a school district pays tuition for all or a portion of the
31 school district's high school pupils to another school district, the capital
32 plan shall indicate the number of pupils for which the district pays tuition
33 to another district. If a school district accepts pupils from another school
34 district pursuant to section 15-824, subsection A, the school district shall
35 indicate the projections for this population separately. This paragraph does
36 not apply to a small isolated school district as defined in section 15-901.

37 C. If the capital plan indicates a need for a new school or an
38 addition to an existing school within the next four years or a need for land
39 within the next ten years, the school district shall submit its plan to the
40 school facilities board by September 1 and shall request monies from the new
41 school facilities fund for the new construction or land. Monies provided for
42 land shall be in addition to any monies provided pursuant to subsection D of
43 this section.

D. The school facilities board shall distribute monies from the new school facilities fund as follows:

1. The school facilities board shall review and evaluate the enrollment projections and either approve the projections as submitted or revise the projections. In determining new construction requirements, the school facilities board shall determine the net new growth of pupils that will require additional square footage that exceeds the building adequacy standards prescribed in section 15-2011. If the projected growth and the existing number of pupils exceeds three hundred fifty pupils who are served in a school district other than the pupil's resident school district, the school facilities board, the receiving school district and the resident school district shall develop a capital facilities plan on how to best serve those pupils. A small isolated school district as defined in section 15-901 is not required to develop a capital facilities plan pursuant to this paragraph.

2. If the approved projections indicate that additional space will not be needed within the next two years for elementary schools or three years for middle or high schools in order to meet the building adequacy standards prescribed in section 15-2011, the request shall be held for consideration by the school facilities board for possible future funding and the school district shall annually submit an updated plan until the additional space is needed.

3. If the approved projections indicate that additional space will be needed within the next two years for elementary schools or three years for middle or high schools in order to meet the building adequacy standards prescribed in section 15-2011, the school facilities board shall provide an amount as follows:

(a) Determine the number of pupils requiring additional square footage to meet building adequacy standards. This amount for elementary schools shall not be less than the number of new pupils for whom space will be needed in the next year and shall not exceed the number of new pupils for whom space will be needed in the next five years. This amount for middle and high schools shall not be less than the number of new pupils for whom space will be needed in the next four years and shall not exceed the number of new pupils for whom space will be needed in the next eight years.

(b) Multiply the number of pupils determined in subdivision (a) of this paragraph by the square footage per pupil. The square footage per pupil is ninety square feet per pupil for preschool children with disabilities, kindergarten programs and grades one through six, one hundred square feet for grades seven and eight, one hundred thirty-four square feet for a school district that provides instruction in grades nine through twelve for fewer than one thousand eight hundred pupils and one hundred twenty-five square feet for a school district that provides instruction in grades nine through twelve for at least one thousand eight hundred pupils. The total number of pupils in grades nine through twelve in the district shall determine the

square footage factor to use for net new pupils. The school facilities board may modify the square footage requirements prescribed in this subdivision for particular schools based on any of the following factors:

(i) The number of pupils served or projected to be served by the school district.

(ii) Geographic factors.

(iii) Grade configurations other than those prescribed in this subdivision.

(iv) Compliance with minimum school facility adequacy requirements established pursuant to section 15-2011.

(c) Multiply the product obtained in subdivision (b) of this paragraph by the cost per square foot. The cost per square foot is ninety dollars for preschool children with disabilities, kindergarten programs and grades one through six, ninety-five dollars for grades seven and eight and one hundred ten dollars for grades nine through twelve. The cost per square foot shall be adjusted annually for construction market considerations based on an index identified or developed by the joint legislative budget committee as necessary but not less than once each year. The school facilities board shall multiply the cost per square foot by 1.05 for any school district located in a rural area. The school facilities board may modify the base cost per square foot prescribed in this subdivision for particular schools based on geographic conditions or site conditions. For the purposes of this subdivision, "rural area" means an area outside a thirty-five mile radius of a boundary of a municipality with a population of more than fifty thousand persons.

(d) Once the school district governing board obtains approval from the school facilities board for new facility construction funds, additional portable or modular square footage created for the express purpose of providing temporary space for pupils until the completion of the new facility shall not be included by the school facilities board for the purpose of new construction funding calculations. On completion of the new facility construction project, if the portable or modular facilities continue in use, the portable or modular facilities shall be included as prescribed by this chapter, unless the school facilities board approves their continued use for the purpose of providing temporary space for pupils until the completion of the next new facility that has been approved for funding from the new school facilities fund.

4. For projects approved after December 31, 2001, and notwithstanding paragraph 3 of this subsection, a unified school district that does not have a high school is not eligible to receive high school space as prescribed by section 15-2011 and this section unless the unified district qualifies for geographic factors prescribed by paragraph 3, subdivision (b), item (ii) of this subsection.

1 E. Monies for architectural and engineering fees, project management
2 services and preconstruction services shall be distributed on the completion
3 of the analysis by the school facilities board of the school district's
4 request. After receiving monies pursuant to this subsection, the school
5 district shall submit a design development plan for the school or addition to
6 the school facilities board before any monies for construction are
7 distributed. If the school district's request meets the building adequacy
8 standards, the school facilities board may review and comment on the
9 district's plan with respect to the efficiency and effectiveness of the plan
10 in meeting state square footage and facility standards before distributing
11 the remainder of the monies. If the school facilities board modifies the
12 cost per square foot as prescribed in subsection D, paragraph 3, subdivision
13 (c), the school facilities board may deduct the cost of project management
14 services and preconstruction services from the required cost per square foot.
15 The school facilities board may decline to fund the project if the square
16 footage is no longer required due to revised enrollment projections.

17 F. The school facilities board shall distribute the monies needed for
18 land for new schools so that land may be purchased at a price that is less
19 than or equal to fair market value and in advance of the construction of the
20 new school. If necessary, the school facilities board may distribute monies
21 for land to be leased for new schools if the duration of the lease exceeds
22 the life expectancy of the school facility by at least fifty per cent. The
23 proceeds derived through the sale of any land purchased or partially
24 purchased with monies provided by the school facilities board shall be
25 returned to the state fund from which it was appropriated and to any other
26 participating entity on a proportional basis. Except as provided in section
27 15-342, paragraph 33, if a school district acquires real property by donation
28 at an appropriate school site approved by the school facilities board, the
29 school facilities board shall distribute an amount equal to twenty per cent
30 of the fair market value of the donated real property that can be used for
31 academic purposes. The school district shall place the monies in the
32 unrestricted capital outlay fund and increase the unrestricted capital budget
33 limit by the amount of monies placed in the fund. Monies distributed under
34 this subsection shall be distributed from the new school facilities fund. A
35 school district that receives monies from the new school facilities fund for
36 a donation of land pursuant to section 15-342, paragraph 33 shall not receive
37 monies from the school facilities board for the donation of real property
38 pursuant to this subsection. A school district shall not pay a consultant a
39 percentage of the value of any of the following:

40 1. Donations of real property, services or cash from any of the
41 following:

42 (a) Entities that have offered to provide construction services to the
43 school district.

44 (b) Entities that have been contracted to provide construction
45 services to the school district.

1 (c) Entities that build residential units in that school district.

2 (d) Entities that develop land for residential use in that school
3 district.

4 2. Monies received from the school facilities board on behalf of the
5 school district.

6 3. Monies paid by the school facilities board on behalf of the school
7 district.

8 G. In addition to distributions to school districts based on pupil
9 growth projections, a school district may submit an application to the school
10 facilities board for monies from the new school facilities fund if one or
11 more school buildings have outlived their useful life. If the school
12 facilities board determines that the school district needs to build a new
13 school building for these reasons, the school facilities board shall remove
14 the square footage computations that represent the building from the
15 computation of the school district's total square footage for purposes of
16 this section. If the square footage recomputation reflects that the school
17 district no longer meets building adequacy standards, the school district
18 qualifies for a distribution of monies from the new school construction
19 formula in an amount determined pursuant to subsection D of this section.
20 Buildings removed from a school district's total square footage pursuant to
21 this subsection shall not be included in the computation of monies from the
22 building renewal fund established by section 15-2031. The school facilities
23 board may modify the base cost per square foot prescribed in this subsection
24 under extraordinary circumstances for geographic factors or site conditions.

25 H. School districts that receive monies from the new school facilities
26 fund shall establish a district new school facilities fund and shall use the
27 monies in the district new school facilities fund only for the purposes
28 prescribed in this section. By October 15 of each year, each school district
29 shall report to the school facilities board the projects funded at each
30 school in the previous fiscal year with monies from the district new school
31 facilities fund and shall provide an accounting of the monies remaining in
32 the new school facilities fund at the end of the previous fiscal year.

33 I. If a school district has surplus monies received from the new
34 school facilities fund, the school district may use the surplus monies only
35 for capital purposes for the project for up to one year after completion of
36 the project. If the school district possesses surplus monies from the new
37 school construction project that have not been expended within one year of
38 the completion of the project, the school district shall return the surplus
39 monies to the school facilities board for deposit in the new school
40 facilities fund.

41 J. The board's consideration of any application filed after July 1,
42 2001 or after December 31 of the year in which the property becomes territory
43 in the vicinity of a military airport or ancillary military facility as
44 defined in section 28-8461 for monies to fund the construction of new school
45 facilities proposed to be located in territory in the vicinity of a military

1 airport or ancillary military facility shall include, if after notice is
2 transmitted to the military airport pursuant to section 15-2002 and before
3 the public hearing the military airport provides comments and analysis
4 concerning compatibility of the proposed school facilities with the high
5 noise or accident potential generated by military airport or ancillary
6 military facility operations that may have an adverse effect on public health
7 and safety, consideration and analysis of the comments and analysis provided
8 by the military airport before making a final determination.

9 K. If a school district uses its own project manager for new school
10 construction, the members of the school district governing board and the
11 project manager shall sign an affidavit stating that the members and the
12 project manager understand and will follow the minimum adequacy requirements
13 prescribed in section 15-2011.

14 L. The school facilities board shall establish a separate account in
15 the new school facilities fund designated as the litigation account to pay
16 attorney fees, expert witness fees and other costs associated with litigation
17 in which the school facilities board pursues the recovery of damages for
18 deficiencies correction that resulted from alleged construction defects or
19 design defects that the school facilities board believes caused or
20 contributed to a failure of the school building to conform to the building
21 adequacy requirements prescribed in section 15-2011. Attorney fees paid
22 pursuant to this subsection shall not exceed the market rate for similar
23 types of litigation. Monies recovered as damages pursuant to this subsection
24 shall be used to offset debt service on the correction of existing
25 deficiencies ~~as prescribed by section 15-2021~~. The joint committee on
26 capital review shall conduct an annual review of the litigation account,
27 including the costs associated with current and potential litigation.

28 M. Until the state board of education and the auditor general adopt
29 rules pursuant to section 15-213, subsection I, the school facilities board
30 may allow school districts to contract for construction services and
31 materials through the qualified select bidders list method of project
32 delivery for new school facilities pursuant to this section.

33 N. The school facilities board shall submit a report on project
34 management services and preconstruction services to the governor, the
35 president of the senate and the speaker of the house of representatives by
36 December 31 of each year. The report shall compare projects that use project
37 management and preconstruction services with those that do not. The report
38 shall address cost, schedule and other measurable components of a
39 construction project. School districts, construction manager at risk firms
40 and project management firms that participate in a school facilities board
41 funded project shall provide the information required by the school
42 facilities board in relation to this report.

43 O. If a school district constructs new square footage according to
44 section 15-342, paragraph 33, the school facilities board shall review design
45 plans and location of any new school facility submitted by school districts

1 and another party to determine whether the design plans comply with the
2 adequacy standards prescribed in section 15-2011 and the square footage per
3 pupil requirements pursuant to subsection D, paragraph 3, subdivision (b) of
4 this section. When the school district qualifies for a distribution of
5 monies from the new school facilities fund according to this section, the
6 school facilities board shall distribute monies to the school district from
7 the new school facilities fund for the square footage constructed under
8 section 15-342, paragraph 33 at the same cost per square foot established by
9 this section that was in effect at the time of the beginning of the
10 construction of the school facility. Before the school facilities board
11 distributes any monies pursuant to this subsection, the school district shall
12 demonstrate to the school facilities board that the facilities to be funded
13 pursuant to this section meet the minimum adequacy standards prescribed in
14 section 15-2011. The agreement entered into pursuant to section 15-342,
15 paragraph 33 shall set forth the procedures for the allocation of these funds
16 to the parties that participated in the agreement.

17 P. NOTWITHSTANDING SUBSECTIONS B AND C OF THIS SECTION, A SCHOOL
18 DISTRICT WITH AN INCREASED STUDENT COUNT THAT EXCEEDS ONE HUNDRED FIFTY PER
19 CENT OF THE STATEWIDE AVERAGE STUDENT COUNT INCREASE FOR SCHOOL DISTRICTS
20 SHALL PROVIDE THE SCHOOL FACILITIES BOARD WITH A CAPITAL PLAN TWICE EACH
21 YEAR, AND THE SCHOOL FACILITIES BOARD SHALL REVIEW THE PLAN TWICE EACH YEAR.